



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2012 REGULAR SESSION

HOUSE BILL NO. 277

MONDAY, FEBRUARY 27, 2012

The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED
DATE April 11, 2012
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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY Mary Sue Helm

1 AN ACT relating to local occupational license tax forms.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS 67.750 TO 67.790 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) Before November 1, 2012, each tax district that imposes an occupational license*
6 *tax on net profits or gross receipts shall submit either an electronic or hard copy*
7 *of its occupational license tax return form or forms; accompanying instructions;*
8 *and a copy of its occupational license tax ordinance to the Secretary of State.*

9 *(2) A tax district that imposes a new occupational license tax on net profits or gross*
10 *receipts or amends its ordinance after November 1, 2012, shall provide a copy of*
11 *its ordinance to the Secretary of State within thirty (30) days of the adoption or*
12 *amendment. The tax district may provide any additional information,*
13 *interpretations, forms, or instructions it deems necessary to clarify or explain its*
14 *compliance requirements for affected business entities.*

15 *(3) The Secretary of State shall include the form or forms, instructions, or the*
16 *ordinances provided under this section on the one-stop business portal or another*
17 *public Web site maintained by that office.*

18 ➔SECTION 2. A NEW SECTION OF KRS 67.750 TO 67.790 IS CREATED TO
19 READ AS FOLLOWS:

20 *(1) The Secretary of State shall prescribe a standard form or forms, through*
21 *promulgation of an administrative regulation, which shall be accepted by all tax*
22 *districts and shall allow for returns of net profits and gross receipts occupational*
23 *license taxes by all business entities unless the tax district opts out from*
24 *acceptance in accordance with subsection (2) of this section or is exempted under*
25 *subsection (3) of this section. The Secretary shall also develop and update as*
26 *necessary instructions or a set of instructions for business entities on the*
27 *completion of the standard form or forms so that business entities have the*

1 current information necessary to ensure the proper payment of the tax to each
2 tax district.

3 (a) The Secretary shall seek advice and comments on the development,
4 amendment, and maintenance of the form or forms and instructions from
5 an advisory committee chaired by the Secretary, or his or her designee, that
6 is composed of a representative from the Kentucky Association of Counties,
7 the Kentucky League of Cities, the Kentucky Occupational License
8 Association, the Kentucky School Boards Association, the Kentucky Society
9 of Certified Public Accountants, urban-county governments, consolidated
10 local governments, and a representative of business entities appointed by the
11 Secretary.

12 (b) During the development of the proposed initial form or forms, the Secretary
13 of State shall report in writing to the Interim Joint Committee on Local
14 Government on the progress of the development process. When the
15 proposed administrative regulation is filed with the Legislative Research
16 Commission pursuant to KRS Chapter 13A, the Secretary of State shall also
17 submit a copy thereof, via regular or electronic mail, to the members of the
18 Interim Joint Committee on Local Government, or if during a session of the
19 General Assembly, to the members of the House Standing Committee on
20 Local Government and the Senate Standing Committee on State and Local
21 Government. The submission to the members shall include a note from the
22 Secretary of State stating that the members may submit any comments
23 regarding the proposed administrative regulation in accordance with the
24 deadline established in KRS 13A.270(1)(c).

25 (c) Notwithstanding KRS 13A.290(6)(a), after review by the Administrative
26 Regulation Review Subcommittee the Legislative Research Commission
27 shall assign the administrative regulation to the Interim Joint Committee

1 on Local Government for consideration, or if during a session of the
 2 General Assembly, to the House Standing Committee on Local Government
 3 and the Senate Standing Committee on State and Local Government.

4 (d) Once the standard form or forms are adopted or amended, the Secretary of
 5 State shall include the form or forms, instructions, and any updates on the
 6 one-stop business portal or another public Web site maintained by that
 7 office along with information submitted to the Secretary of State pursuant
 8 to subsection (2) or (3) of this section. The form or forms and instructions
 9 shall be updated and maintained by the Secretary of State at no cost to the
 10 tax districts. No fee shall be levied against the public or businesses for
 11 accessing and downloading forms, instructions, or other information
 12 maintained by the Secretary of State under this section.

13 (2) After the form or forms are adopted under subsection (1) of this section but prior
 14 to July 1, 2017, a tax district may adopt the standard form or forms as its
 15 exclusive return form or forms, may accept the standard form or forms in
 16 addition to the tax district's own return form or forms, or may elect to opt out of
 17 accepting the standard form or forms through adoption of a written order by the
 18 tax district's governing body. If a tax district elects not to accept the standard
 19 form or forms, it shall forward the following information to the Secretary of State
 20 for inclusion on the one-stop business portal or another public Web site
 21 maintained by that office:

22 (a) A copy of the written order specifying that the tax district will not accept the
 23 standard form or forms within thirty (30) days of its adoption; and

24 (b) A copy of occupational license tax forms that the tax district accepts, any
 25 accompanying instructions, and any future amendments to those forms and
 26 instructions within thirty (30) days of any change.

27 (3) After July 1, 2017, a tax district shall either adopt the standard form or forms as

1 its exclusive return form or forms or accept the standard form or forms in
 2 addition to the tax district's own return form or forms, unless:

3 (a) The tax district submits a written request approved by the tax district's
 4 governing body to the Secretary of State for an exemption based on
 5 documented information that acceptance of the form will impose an undue
 6 financial hardship on the tax district; and

7 (b) The Secretary of State approves the request for an exemption and obtains
 8 the return form or forms that will be accepted by the tax district and any
 9 applicable instructions for inclusion on the one-stop business portal or
 10 another public Web site maintained by that office. In exercising his or her
 11 discretion to grant an exemption under this subsection, the Secretary of
 12 State may impose any reasonable terms and limitations upon the exemption.

13 (4) Upon receipt of an order pursuant to subsection (2) of this section or upon the
 14 issuance of an exemption under subsection (3) of this section, the Secretary of
 15 State shall provide notice to the Kentucky Society of Certified Public Accountants
 16 of the tax districts that have submitted a written order to opt out under subsection
 17 (2) of this section or that are granted an exemption under subsection (3) of this
 18 section.

19 (5) The Secretary of State shall, only upon the request of a tax district, include
 20 electronic links for the electronic filing of forms with the local tax district by no
 21 later than July 1, 2017.

22 (6) Nothing in this section or Section 1 of this Act shall be interpreted to alter or
 23 preempt the requirements imposed by a tax district regarding deadlines,
 24 reporting, rates, or other legally imposed procedures regarding the imposition,
 25 administration, and collection of local occupational license taxes by a tax district.
 26 Nor shall the adoption or use of a standard form or forms developed under this
 27 section release the taxpayer from any liability or responsibility to the tax district

for the correct payment of taxes, penalties, and any other obligations imposed by the tax district. This section and Section 1 of this Act shall not be interpreted to authorize the collection of local tax revenues by the state government or any other agency of the state.

➔Section 3. KRS 67.768 is amended to read as follows:

- (1) All business entities' returns for the preceding taxable year shall be made by April 15 in each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year.

Blank copies of local forms for returns shall be made available to business entities~~[supplied]~~ by the tax district.

- (2) Every business entity shall submit a copy of its federal income tax return at the time of filing its return with the tax district. Whenever, in the opinion of the tax district, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the tax district may compel the business entity to produce for inspection a copy of all statements and schedules in support thereof. The tax district may also require copies of reports of adjustments made by the federal government.

➔Section 4. KRS 67.790 is amended to read as follows:

- (1) A business entity subject to tax on gross receipts or net profits may be subject to a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:

- (a) Fails to file any return or report on or before the due date prescribed for filing or as extended by the tax district; or
- (b) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than

- 1 twenty-five dollars (\$25).
- 2 (2) Every employer who fails to file a return or pay the tax on or before the date
3 prescribed under KRS 67.783 may be subject to a penalty in an amount equal to five
4 percent (5%) of the tax due for each calendar month or fraction thereof. The total
5 penalty levied pursuant to this subsection shall not exceed twenty-five percent
6 (25%) of the total tax due; however, the penalty shall not be less than twenty-five
7 dollars (\$25).
- 8 (3) In addition to the penalties prescribed in this section, any business entity or
9 employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per
10 annum simple interest on the tax shown due, but not previously paid, from the time
11 the tax was due until the tax is paid to the tax district. A fraction of a month is
12 counted as an entire month.
- 13 (4) Every tax subject to the provisions of KRS 67.750 to 67.790, and all increases,
14 interest, and penalties thereon, shall become, from the time the tax is due and
15 payable, a personal debt of the taxpayer to the tax district.
- 16 (5) In addition to the penalties prescribed in this section, any business entity or
17 employer who willfully fails to make a return, willfully makes a false return, or
18 willfully fails to pay taxes owing or collected, with the intent to evade payment of
19 the tax or amount collected, or any part thereof, shall be guilty of a Class A
20 misdemeanor.
- 21 (6) Any person who willfully aids or assists in, or procures, counsels, or advises the
22 preparation or presentation under, or in connection with, any matter arising under
23 KRS 67.750 to 67.790 of a return, affidavit, claim, or other document, which is
24 fraudulent or is false as to any material matter, whether or not the falsity or fraud is
25 with the knowledge or consent of the person authorized or required to present the
26 return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.
- 27 (7) A return for the purpose of this section shall mean and include any return,

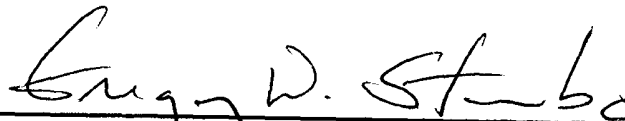
1 declaration, or form prescribed by the tax district and required to be filed with the
2 tax district by the provisions of KRS 67.750 to 67.790, or by the rules of the tax
3 district or by written request for information to the business entity by the tax
4 district.

5 (8) (a) No present or former employee of any tax district shall intentionally and
6 without authorization inspect or divulge any information acquired by him or
7 her of the affairs of any person, or information regarding the tax schedules,
8 returns, or reports required to be filed with the tax district or other proper
9 officer, or any information produced by a hearing or investigation, insofar as
10 the information may have to do with the affairs of the person's business. This
11 prohibition does not extend to information required in prosecutions for
12 making false reports or returns for taxation, or any other infraction of the tax
13 laws, or in any way made a matter of public record, nor does it preclude
14 furnishing any taxpayer or the taxpayer's properly authorized agent with
15 information respecting his or her own return. Further, this prohibition does not
16 preclude any employee of the tax district from testifying in any court, or from
17 introducing as evidence returns or reports filed with the tax district, in an
18 action for violation of a tax district tax laws or in any action challenging a tax
19 district tax laws.

20 (b) Any person who violates the provisions of paragraph (a) of this subsection by
21 intentionally inspecting confidential taxpayer information without
22 authorization shall be fined not more than five hundred dollars (\$500) or
23 imprisoned for not longer than six (6) months, or both.

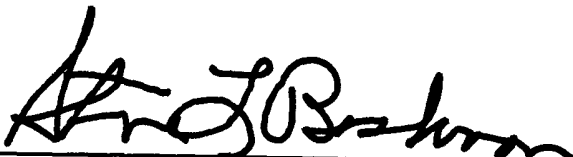
24 (c) Any person who violates the provisions of paragraph (a) of this subsection by
25 divulging confidential taxpayer information shall be fined not more than one
26 thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or
27 both.

1 (9) If a tax district that imposes a net profits or gross receipts occupational license
2 tax fails to comply with the requirements of subsection (1) or (2) of Section 1 of
3 this Act, the Secretary of State shall inform the tax district in writing of its
4 noncompliance. If the tax district is not in compliance within thirty (30) days
5 following the notice from the Secretary, the Secretary shall notify all state
6 agencies which deliver services or payments of money from the Commonwealth
7 to the tax district of the tax district's noncompliance. Those agencies shall
8 suspend delivery of all services or payments to a tax district which fails to comply
9 with the requirements of subsection (1) or (2) of Section 1 of this Act. The
10 Secretary of State shall immediately notify those same agencies when the tax
11 district is in compliance with the requirements of subsection (1) or (2) of Section
12 1 of this Act, and those agencies shall reinstate the delivery of services or
13 payments to the tax district.


Speaker-House of Representatives


President of Senate

Attest: 
Chief Clerk of House of Representatives

Approved 
Governor

Date 4-11-12